

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROSS PRODUCTS DIVISION ABBOTT
LABORATORIES INC. D.b.a. EAS,

Plaintiff,

-against-

RAYMOND SAPER a/k/a/ RAY SAPER,
d/b/a/ SPORTS SUPPLEMENTS
NORTHEAST,

Defendants.
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MEMORANDUM AND ORDER

CV 06-3264

(Wexler, J.)

APPEARANCES:

SALON MARROW DYCKMAN & NEWMAN, LLP
BY: LIVIU VOGEL, ESQ.
685 Third Avenue, 21st Floor
New York, NY 10017

SALON MARROW DYCKMAN & NEWMAN, LLP
BY: WILLIAM J. CORTELLESA, ESQ.
292 Madison Avenue
6th Floor
New York, NY 10017
Attorneys for Plaintiff

GOLDBERG & CARLTON
BY: ROBERT H. GOLDBERG, ESQ.
Goldberg & Carlton
31 East 32 Street
New York, NY 10016
Attorneys for Defendant

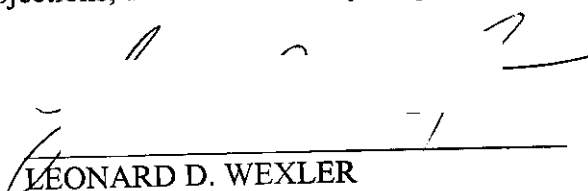
WEXLER, District Judge:

Presently before the court is a Report and Recommendation ("R&R") of the assigned

Magistrate Judge, Michael L. Orenstein. The R&R recommends that Plaintiff's motion to add as an additional party defendant, Goodfellas, Inc. be granted. The R&R further recommends that Plaintiff's application for leave to add a fraud claim against Saper and Goodfellas, Inc. be granted in part and denied in part. Specifically, it is recommended that Plaintiff be granted leave to amend the complaint to add a claim of fraud, but only to the extent that the claim is based upon misrepresentations made for the purpose of misleading Plaintiff into entering into the alleged contractual agreement between the parties. Finally, the R&R recommends that Plaintiff's motion to amend the complaint to add a claim against Saper based upon alter ego liability be denied..

The R&R is dated March 28, 2007, and the parties were advised that any objections thereto were required to be filed within fifteen days of the date of the R&R. The time to file objections having passed without receipt of such objections, the R&R is hereby adopted.

SO ORDERED


LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
April 26, 2007